

Senate Bill No. 1840

CHAPTER 246

An act to amend Sections 9904, 9910, 9912, 9932, 9941, 9942, 9943, 9944, 9971, 9972, 9973, 9974, 9975, 9976, 9977, 9978, 9979, 9980, 9981, 9982, 10003, 10006, 10061, 10062, 10063, 10064, 10065, 10066, 10067, 10068, 10103, and 10151 of, to amend the headings of Article 3 (commencing with Section 9941) and Article 4 (commencing with Section 9971) of Chapter 2 of Part 2 of Division 5 of, to add Sections 9914, 9933, and 10100 to, to repeal Sections 9905, 9906, 9911, 10002, 10005, 10008, 10009, 10104, and 10105 of, to repeal Article 6 (commencing with Section 10031), Article 8 (commencing with Section 10081), and Article 10 (commencing with Section 10131) of Chapter 2 of Part 2 of Division 5 of, and to repeal and add Sections 9907, 10004, 10007, 10101, and 10102 of, the Food and Agricultural Code, relating to diseased animals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 2004. Filed with
Secretary of State August 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1840, Denham. Diseased animals: bovine tuberculosis.

Existing law generally provides for the testing of bovine animals for bovine tuberculosis and regulates bovines that react positively to tuberculin. Existing law grants specified powers to the Secretary of Food and Agriculture to carry out the provisions relating to bovine tuberculosis.

This bill would revise and recast various provisions relating to bovine tuberculosis. This bill would remove references to tuberculin from these provisions and would make conforming changes in this regard. This bill would transfer various powers to carry out the provisions relating to bovine tuberculosis from the secretary to the State Veterinarian.

Existing law makes it a misdemeanor for a person who is not an approved veterinarian to buy, possess, or use tuberculin.

The bill would instead make it a misdemeanor for any person who is not an approved veterinarian to buy, possess, or use tuberculosis tests, and for any person who is not a duly authorized representative of the Department of Food and Agriculture or the United States Department of Agriculture to possess or use tuberculosis tests. Because this bill would change the definition of an existing crime, it would impose a state-mandated local program.

Existing law authorizes the department to establish and maintain tuberculosis control areas within the state. Existing law generally requires the department to take various actions with respect to testing the cattle in a tuberculosis control area.

This bill would revise and recast the provisions relating to tuberculosis control areas. The bill would remove the above requirements from the department and would instead authorize the State Veterinarian to authorize the tuberculosis testing of any cattle in a tuberculosis control area to determine which animals are affected with tuberculosis.

Existing law requires the slaughter of bovine animals that react positively to a tuberculin test under the supervision of the secretary. Existing law specifies how the owner of the bovine shall be indemnified if an animal is slaughtered pursuant to these provisions.

This bill would require that the animals be slaughtered under the supervision of the State Veterinarian. The bill would revise how the owner is indemnified upon the slaughter of the animal.

Existing law authorizes the slaughter of exposed nonreacting animals in a herd if specified requirements are met.

This bill would repeal those provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 9904 of the Food and Agricultural Code is amended to read:

9904. “Bovine animals” means cattle.

SEC. 2. Section 9905 of the Food and Agricultural Code is repealed.

SEC. 3. Section 9906 of the Food and Agricultural Code is repealed.

SEC. 4. Section 9907 of the Food and Agricultural Code is repealed.

SEC. 5. Section 9907 is added to the Food and Agricultural Code, to read:

9907. “State TB status” means an area so declared by the United States Department of Agriculture.

SEC. 6. Section 9910 of the Food and Agricultural Code is amended to read:



9910. “Reactor” or “reacting bovine animal” means any bovine animal that reacts positively to a tuberculosis test or that is determined to be tuberculosis upon examination.

SEC. 7. Section 9911 of the Food and Agricultural Code is repealed.

SEC. 8. Section 9912 of the Food and Agricultural Code is amended to read:

9912. “Tuberculosis test” means the use of an official test for diagnosing tuberculosis in cattle.

SEC. 9. Section 9914 is added to the Food and Agricultural Code, to read:

9914. “Tuberculosis-exposed cattle” means cattle that have been in contact with, or exposed to, any reactor or tuberculosis infected premises, or any tuberculosis infected material.

SEC. 10. Section 9932 of the Food and Agricultural Code is amended to read:

9932. The State Veterinarian may make regulations as are reasonably necessary to carry into effect the provisions of this chapter to prevent bovine tuberculosis from entering and spreading within this state.

SEC. 11. Section 9933 is added to the Food and Agricultural Code, to read:

9933. The department may enter into any cooperative agreement with the United States Department of Agriculture to undertake tuberculosis control pursuant to this chapter.

SEC. 12. The heading of Article 3 (commencing with Section 9941) of Chapter 2 of Part 2 of Division 5 of the Food and Agricultural Code is amended to read:

Article 3. Sale and Use of Tuberculosis Tests

SEC. 13. Section 9941 of the Food and Agricultural Code is amended to read:

9941. (a) The State Veterinarian may designate approved veterinarians to buy, possess, or use tuberculosis tests and may suspend or revoke that designation.

(b) The State Veterinarian may designate a duly authorized representative of the department or of the United States Department of Agriculture to possess or use tuberculosis tests and may suspend or revoke that designation.

SEC. 14. Section 9942 of the Food and Agricultural Code is amended to read:



9942. Any sale or disposition of tuberculosis tests within the state shall be reported to the department within five days after the sale or disposition.

SEC. 15. Section 9943 of the Food and Agricultural Code is amended to read:

9943. (a) It is a misdemeanor punishable by imprisonment in the county jail for not less than 90 days, without alternative of a fine in any case, for any person who is not an approved veterinarian to buy, possess, or use tuberculosis tests.

(b) It is a misdemeanor punishable by imprisonment in a county jail for not less than 90 days, without alternative of a fine in any case, for any person who is not a duly authorized representative of the department or of the United States Department of Agriculture to possess or use tuberculosis tests.

SEC. 16. Section 9944 of the Food and Agricultural Code is amended to read:

9944. It is unlawful for any person to sell or otherwise dispose of any tuberculosis test in the state that has not been produced under license of the Agricultural Research Service of the United States Department of Agriculture.

SEC. 17. The heading of Article 4 (commencing with Section 9971) of Chapter 2 of Part 2 of Division 5 of the Food and Agricultural Code is amended to read:

Article 4. Tuberculosis Tests

SEC. 18. Section 9971 of the Food and Agricultural Code is amended to read:

9971. Any approved veterinarian or duly authorized representative of the department or of the United States Department of Agriculture may ear tag or otherwise identify any bovine animal to establish the identity of the animal, while applying a tuberculosis test to it.

SEC. 19. Section 9972 of the Food and Agricultural Code is amended to read:

9972. The result of every tuberculosis test shall be reported to the State Veterinarian by the veterinarian who conducted the test within 48 hours after the completion of the test.

SEC. 20. Section 9973 of the Food and Agricultural Code is amended to read:

9973. Every reactor, immediately upon the determination of such reaction, shall be identified, pursuant to regulations of the department and the United States Department of Agriculture, by its owner or the

owner's agent under the supervision of the approved veterinarian who conducts the tuberculosis test.

SEC. 21. Section 9974 of the Food and Agricultural Code is amended to read:

9974. If the State Veterinarian has reason to suspect an irregularity in the application of a tuberculosis test or the identification of reactors, the State Veterinarian may enter any premises for the purpose of examining any bovine animals in or on the premises to determine if there has been any abuse or misuse of tuberculosis, or any faulty, unskillful, or irregular technique or procedure in the application of the tuberculosis test, identification of reactors, or identification of animals tested for tuberculosis.

SEC. 22. Section 9975 of the Food and Agricultural Code is amended to read:

9975. It is unlawful for any person to do any of the following:

(a) Obstruct, attack, or interfere with, or permit to be obstructed, attacked, or interfered with, the State Veterinarian or an approved veterinarian who is conducting a tuberculosis test.

(b) Neglect or fail to properly secure and restrain any bovine animal to be tuberculosis tested, or under tuberculosis test, for examination, injection, observation, or other procedures that pertain to a tuberculosis test.

SEC. 23. Section 9976 of the Food and Agricultural Code is amended to read:

9976. It is a misdemeanor which is punishable by imprisonment in the county jail for not less than 90 days, without the alternative of a fine in any case, for any person to defeat or interfere with or to attempt to defeat or interfere with a tuberculosis test.

SEC. 24. Section 9977 of the Food and Agricultural Code is amended to read:

9977. It is a misdemeanor which is punishable by imprisonment in the county jail for not less than 90 days, without the alternative of a fine in any case, for any person to obstruct, defeat, or interfere with or to attempt to obstruct, defeat, or interfere with a tuberculosis test by transporting from a premises or by hiding away or sequestering any bovine animal from or by bringing substitute bovine animals onto, such premises after receipt of a notification by the owner or person in charge of such animals on the premises from the department or from an approved veterinarian who is conducting tuberculosis tests, stating that the animals or herd on such premises will be tuberculosis tested on or before a certain date or will be under tuberculosis test for a stated period and that the animals or herd shall be held on the stated premises for a specified period.



SEC. 25. Section 9978 of the Food and Agricultural Code is amended to read:

9978. Permission in writing may be obtained from the department or the approved veterinarian who is conducting the tuberculosis tests to allow any necessary movement of the animals required to be held pursuant to Section 9977. Upon the completion of the tuberculosis test that is referred to in the notification, the department or the approved veterinarian shall issue a written release from the holding requirements of the notice.

SEC. 26. Section 9979 of the Food and Agricultural Code is amended to read:

9979. It is unlawful for any person to apply a tuberculosis test to any bovine animal that has at any time been found by an approved veterinarian to be a reactor.

SEC. 27. Section 9980 of the Food and Agricultural Code is amended to read:

9980. It is unlawful for any person to knowingly apply tuberculosis tests that are not approved tests.

SEC. 28. Section 9981 of the Food and Agricultural Code is amended to read:

9981. It is unlawful for any person to have any tuberculosis infected or exposed bovine animal at any livestock fair or show.

SEC. 29. Section 9982 of the Food and Agricultural Code is amended to read:

9982. It is unlawful for any person to knowingly sell, after notification of its condition from the department, any bovine animal that has tuberculosis as shown by a positive reaction to the tuberculosis test, physical examination, or any other method which is recognized by the department, unless the person has first obtained a permit in writing from the department.

SEC. 30. Section 10002 of the Food and Agricultural Code is repealed.

SEC. 31. Section 10003 of the Food and Agricultural Code is amended to read:

10003. When the department establishes a tuberculosis control area, the affected industry shall be notified.

SEC. 32. Section 10004 of the Food and Agricultural Code is repealed.

SEC. 33. Section 10004 is added to the Food and Agricultural Code, to read:

10004. The State Veterinarian may authorize the testing of any cattle in a tuberculosis control area to determine which animals are affected with tuberculosis.



SEC. 34. Section 10005 of the Food and Agricultural Code is repealed.

SEC. 35. Section 10006 of the Food and Agricultural Code is amended to read:

10006. All owners of cattle within a tuberculosis control area that are subject to examination and tuberculosis testing shall, upon request of the department, provide necessary facilities for conducting tuberculosis tests, and render such assistance as may be required.

SEC. 36. Section 10007 of the Food and Agricultural Code is repealed.

SEC. 37. Section 10007 is added to the Food and Agricultural Code, to read:

10007. Cattle moving into a tuberculosis control area must meet the requirements specified by the State Veterinarian.

SEC. 38. Section 10008 of the Food and Agricultural Code is repealed.

SEC. 39. Section 10009 of the Food and Agricultural Code is repealed.

SEC. 40. Article 6 (commencing with Section 10031) of Chapter 2 of Part 2 of Division 5 of the Food and Agricultural Code is repealed.

SEC. 41. Section 10061 of the Food and Agricultural Code is amended to read:

10061. The State Veterinarian may impose a quarantine pursuant to Section 9562 when any bovine animal reacts positively to a tuberculosis test conducted by an approved veterinarian or a duly authorized representative of the department or of the United States Department of Agriculture, or determined to be tuberculous upon physical examination.

SEC. 42. Section 10062 of the Food and Agricultural Code is amended to read:

10062. The value of the reacting bovine animal for which indemnity is paid shall be determined in accordance with the provisions in Sections 9592 and 9593.

SEC. 43. Section 10063 of the Food and Agricultural Code is amended to read:

10063. Within 30 days after the appraisal of the reacting bovine animal, it shall be slaughtered under the supervision of the State Veterinarian.

SEC. 44. Section 10064 of the Food and Agricultural Code is amended to read:

10064. Animals shall be tested or slaughtered pursuant to this article even if indemnity funds are unavailable.



SEC. 45. Section 10065 of the Food and Agricultural Code is amended to read:

10065. The slaughtering of any reacting bovine animal, pursuant to this article, shall be under the supervision of the department, or of the United States Department of Agriculture.

SEC. 46. Section 10066 of the Food and Agricultural Code is amended to read:

10066. The carcasses of the slaughtered animals shall be disposed of pursuant to the regulations of the department or the rules and regulations of the United States Department of Agriculture that govern meat inspection.

SEC. 47. Section 10067 of the Food and Agricultural Code is amended to read:

10067. If an animal is slaughtered pursuant to this article, and indemnity funds are available, the owner may receive part or all of the following:

(a) The proceeds of the sale of the salvage of the animal.

(b) From the United States Department of Agriculture, any sum that is authorized to be paid to the owner from any appropriation that is made by the United States Department of Agriculture to assist in the eradication of tuberculosis in cattle in this state.

SEC. 48. Section 10068 of the Food and Agricultural Code is amended to read:

10068. Indemnity provided by this article shall not be paid to any person in any of the following cases:

(a) For any bovine animal that is brought into a tuberculosis control area that reacts to a tuberculosis test that is applied within 90 days after arrival of the animal in the area, as provided for in this chapter.

(b) For any bovine animal that is brought into a tuberculosis control area in violation of any law, any regulation of the department, or any rule or regulation of the United States Department of Agriculture.

(c) For any reacting bovine animal, until the premises, where the animal had been kept, have been cleaned and disinfected by the owner in a manner that is approved by an agent of the department or of the United States Department of Agriculture.

(d) For any reacting bovine animal that is not slaughtered within 30 days after the animal is appraised.

(e) For any animal that is owned by a federal, state, or local government entity.

(f) If the person has violated any provision of this chapter that relates to a tuberculosis control area or any regulation that is made by the department that relates to such an area.



SEC. 49. Article 8 (commencing with Section 10081) of Chapter 2 of Part 2 of Division 5 of the Food and Agricultural Code is repealed.

SEC. 50. Section 10100 is added to the Food and Agricultural Code, to read:

10100. The State Veterinarian may impose a quarantine pursuant to Section 9562 when it has been determined that any bovine animal has been exposed to tuberculosis.

SEC. 51. Section 10101 of the Food and Agricultural Code is repealed.

SEC. 52. Section 10101 is added to the Food and Agricultural Code, to read:

10101. The State Veterinarian may impose tuberculosis testing requirements for tuberculosis-exposed cattle.

SEC. 53. Section 10102 of the Food and Agricultural Code is repealed.

SEC. 54. Section 10102 is added to the Food and Agricultural Code, to read:

10102. Indemnity for reacting tuberculosis-exposed cattle may be available and shall be in accordance with the provision stated in Article 7 (commencing with Section 10061) of this chapter.

SEC. 55. Section 10103 of the Food and Agricultural Code is amended to read:

10103. The State Veterinarian may issue a special permit for the movement of tuberculosis-exposed cattle to any of the following:

(a) An establishment that is operating under state, state approved, or federal meat inspection, or a public stockyards designated by the department to handle reactors and tuberculosis-exposed cattle for slaughter.

(b) Premises where tuberculosis-exposed cattle are kept.

(c) Premises where no spread of tuberculosis to other cattle could occur.

SEC. 56. Section 10104 of the Food and Agricultural Code is repealed.

SEC. 57. Section 10105 of the Food and Agricultural Code is repealed.

SEC. 58. Article 10 (commencing with Section 10131) of Chapter 2 of Part 2 of Division 5 of the Food and Agricultural Code is repealed.

SEC. 59. Section 10151 of the Food and Agricultural Code is amended to read:

10151. If the owner or any person that is in charge of cattle, after 10 days' written notice, refuses properly to confine in corrals or stanchions any cattle that are subject to examination, tuberculosis testing, identification, or slaughter, the department shall be entitled to

reimbursement from the owner for necessary costs incurred to properly examine, tuberculosis test, identify, or slaughter the cattle.

SEC. 60. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 61. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectively control and eradicate bovine tuberculosis, and thereby reduce the danger to the health and safety of the public posed by bovine tuberculosis, at the earliest possible time, it is necessary that this act take effect immediately.

